

Senate Study Bill 3035

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON BEHN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to equitable rate regulation of wholesale and
2 retail telephone services, including jurisdiction of the Iowa
3 utilities board, written complaints filed with the utilities
4 board regarding the reasonableness of an act of a public
5 utility, provision of free directory assistance to blind
6 consumers, and related provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

8 TLSB 5437SC 80

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1 1 Section 1. Section 34A.7, subsection 2, Code 2003, is
2 amended to read as follows:

1 3 2. SURCHARGE COLLECTED BY PROVIDERS. The surcharge shall
1 4 be collected as part of the access line service provider's
1 5 periodic billing to a subscriber. In compensation for the
1 6 costs of billing and collection, the provider may retain one
1 7 percent of the gross surcharges collected. ~~If the~~
~~1 8 compensation is insufficient to fully recover a provider's~~
~~1 9 costs for billing and collection of the surcharge, the~~
~~1 10 deficiency shall be included in the provider's costs for~~
~~1 11 ratemaking purposes to the extent it is reasonable and just~~
~~1 12 under section 476.6.~~ The surcharge shall be remitted to the
1 13 E911 service operating authority for deposit into the E911
1 14 service fund quarterly by the provider. A provider is not
1 15 liable for an uncollected surcharge for which the provider has
1 16 billed a subscriber but not been paid. The surcharge shall
1 17 appear as a single line item on a subscriber's periodic
1 18 billing entitled, "E911 emergency telephone service
1 19 surcharge". The E911 service surcharge is not subject to
1 20 sales or use tax.

1 21 Sec. 2. Section 476.1, Code 2003, is amended to read as
1 22 follows:

1 23 476.1 APPLICABILITY OF AUTHORITY.

1 24 1. The utilities board within the utilities division of
1 25 the department of commerce shall regulate the rates and
1 26 services of public utilities to the extent and in the manner
1 27 hereinafter provided in this chapter.

1 28 2. As used in this chapter, ~~"board"~~:

1 29 a. "Board" or "utilities board" means the utilities board
1 30 within the utilities division of the department of commerce.

1 31 b. ~~As used in this chapter, "public "Public utility" shall~~
~~1 32 include includes~~ any person, partnership, business
1 33 association, or corporation, domestic or foreign, owning or
1 34 operating any facilities for furnishing any of the following:

1 35 1. ~~(1) Furnishing gas Gas~~ by piped distribution system or
2 1 electricity to the public for compensation.

2 2 2. ~~(2) Furnishing communications Communications~~ services
2 3 to the public for compensation.

2 4 3. ~~(3) Furnishing water Water~~ by piped distribution system
2 5 to the public for compensation.

2 6 3. The board shall have rate regulation jurisdiction over
2 7 the provision of wholesale telephone services provided by
2 8 telephone companies. The board shall not have direct or
2 9 indirect rate regulation jurisdiction over the provision of
2 10 retail telephone services provided by telephone companies.

2 11 4. Mutual telephone companies in which at least fifty
2 12 percent of the users are owners, co-operative telephone
2 13 corporations or associations, telephone companies having less
2 14 than fifteen thousand customers and less than fifteen thousand
2 15 access lines, municipally owned utilities, and unincorporated
2 16 villages ~~which that~~ own their own distribution systems are not
2 17 subject to the rate regulation provided for in this chapter.

2 18 5. This chapter does not apply to waterworks having less

2 19 than two thousand customers, municipally owned waterworks,
2 20 joint water utilities established pursuant to chapter 389,
2 21 rural water districts incorporated and organized pursuant to
2 22 chapters 357A and 504A, cooperative water associations
2 23 incorporated and organized pursuant to chapter 499, or to a
2 24 person furnishing electricity to five or fewer customers
2 25 either by secondary line or from an alternate energy
2 26 production facility or small hydro facility, from electricity
2 27 that is produced primarily for the person's own use.
2 28 6. A telephone company otherwise exempt from rate
2 29 regulation and having telephone exchange facilities ~~which that~~
2 30 cross state lines may elect, in a writing filed with the
2 31 board, to have its rates regulated by the board. When a
2 32 written election has been filed with the board, the board
2 33 shall assume rate regulation jurisdiction over the company.
2 34 7. The jurisdiction of the board under this chapter shall
2 35 include efforts designed to promote the use of energy
3 1 efficiency strategies by rate or service-regulated gas and
3 2 electric utilities.
3 3 Sec. 3. Section 476.3, subsection 1, Code 2003, is amended
3 4 to read as follows:
3 5 1. A public utility shall furnish reasonably adequate
3 6 service at rates and charges in accordance with tariffs filed
3 7 with the board.
3 8 1A. a. ~~When there~~ If a written complaint is filed with
3 9 the board by any person or body politic, or filed by the board
3 10 upon its own motion, ~~a written complaint~~ requesting the board
3 11 to determine the reasonableness of the regulated rates,
3 12 charges, schedules, service, regulations, or anything done or
3 13 omitted to be done by a public utility subject to this chapter
3 14 in contravention of this chapter, the written complaint shall
3 15 be forwarded by the board to the public utility, which shall
3 16 be called upon to satisfy the complaint or to answer it in
3 17 writing within a reasonable time to be specified by the board.
3 18 b. Copies of the written complaint forwarded by the board
3 19 to the public utility and copies of all correspondence from
3 20 the public utility in response to the complaint shall be
3 21 provided by the board in an expeditious manner to the consumer
3 22 advocate.
3 23 c. If the board determines the public utility's response
3 24 is inadequate and there appears to be any reasonable ground
3 25 for investigating the complaint, the board shall promptly
3 26 initiate a formal proceeding.
3 27 d. If the consumer advocate determines the public
3 28 utility's response to the complaint is inadequate, the
3 29 consumer advocate may file a petition with the board which
3 30 shall promptly initiate a formal proceeding if the board
3 31 determines that there is any reasonable ground for
3 32 investigating the complaint.
3 33 e. The complainant or the public utility also may petition
3 34 the board to initiate a formal proceeding which petition shall
3 35 be granted if the board determines that there is any
4 1 reasonable ground for investigating the complaint.
4 2 f. The formal proceeding may be initiated at any time by
4 3 the board on its own motion.
4 4 g. If a proceeding is initiated upon petition filed by the
4 5 consumer advocate, complainant, or the public utility, or upon
4 6 the board's own motion, the board shall set the case for
4 7 hearing and give notice as it deems appropriate.
4 8 h. ~~When~~ If the board, after a hearing held after
4 9 reasonable notice, finds a public utility's rates, charges,
4 10 schedules, service, or regulations are unjust, unreasonable,
4 11 discriminatory, or otherwise in violation of any provision of
4 12 law, the board shall determine just, reasonable, and
4 13 nondiscriminatory rates, charges, schedules, service, or
4 14 regulations to be observed and enforced.
4 15 Sec. 4. Section 476.3, subsection 2, unnumbered paragraph
4 16 2, Code 2003, is amended by striking the unnumbered paragraph.
4 17 Sec. 5. Section 476.4, Code 2003, is amended to read as
4 18 follows:
4 19 476.4 TARIFFS FILED.
4 20 1. a. Every public utility shall file with the board
4 21 tariffs showing the rates and charges for its public utility
4 22 services and the rules and regulations under which such
4 23 services ~~were~~ are furnished, ~~on April 1, 1963, which,~~
4 24 b. Regulated rates and charges shall be subject to
4 25 investigation by the board as provided in section 476.3, and
4 26 upon such investigation the burden of establishing the
4 27 reasonableness of such rates and charges shall be upon the
4 28 public utility ~~filing the same. These filings~~
4 29 2. a. Filings shall be made under such rules as the board

4 30 may prescribe within such time and in such form as the board
4 31 may designate.
4 32 b. In prescribing rules and regulations with respect to
4 33 the form of tariffs, the board shall, in the case of public
4 34 utilities subject to regulation by any federal agency, give
4 35 due regard to any corresponding rules and regulations of such
5 1 federal agency, to the end that unnecessary duplication of
5 2 effort and expense may be avoided so far as reasonably
5 3 possible.
5 4 3. Each public utility shall keep copies of its tariffs
5 5 open to public inspection under such rules as the board may
5 6 prescribe.
5 7 ~~Every rate, charge, rule and regulation contained in any~~
5 8 ~~filing made with the commission on or prior to July 4, 1963,~~
5 9 ~~shall be effective as of such date, subject, however, to~~
5 10 ~~investigation as herein provided. If any such filing is made~~
5 11 ~~prior to the time the commission prescribes rules as~~
5 12 ~~above, and if such filing does not comply as to form or~~
5 13 ~~substance with such rules, then the public utility which filed~~
5 14 ~~the same shall within a reasonable time after the adoption of~~
5 15 ~~such rules make a new filing or filings complying with such~~
5 16 ~~rules, which new filing or filings shall be deemed effective~~
5 17 ~~as of July 4, 1963.~~

5 18 Sec. 6. Section 476.4A, unnumbered paragraph 3, Code 2003,
5 19 is amended to read as follows:

5 20 The board shall consider the revenues, expenses and
5 21 investment related to telephone utility services offered
5 22 without a filed tariff in proceedings under section sections
5 23 476.3, 476.6 and 476.7.

5 24 Sec. 7. Section 476.6, subsection 1, Code Supplement 2003,
5 25 is amended to read as follows:

5 26 1. FILING WITH BOARD. A public utility subject to rate
5 27 regulation shall not make effective a new or changed rate,
5 28 charge, schedule or regulation until the rate, charge,
5 29 schedule, or regulation has been approved by the board, except
5 30 as provided in subsections 8 and 10. A subscriber of a
5 31 telephone exchange or service, who is declared to be legally
5 32 blind under section 422.12, subsection 1, paragraph "e", is
5 33 exempt from any charges for telephone directory assistance
5 34 that may be approved by the board.

5 35 Sec. 8. Section 476.6, subsection 9, Code Supplement 2003,
6 1 is amended by striking the subsection.

6 2 Sec. 9. Section 476.29, subsection 3, Code 2003, is
6 3 amended to read as follows:

6 4 3. A certificate is transferable, subject to approval of
6 5 the board pursuant to section 476.20, ~~subsection 1, and for~~
6 6 ~~purposes of a rate-regulated local exchange utility shall be~~
6 7 ~~treated by the board in the same manner as a reorganization~~
6 8 ~~pursuant to sections 476.76 and 476.77.~~

6 9 Sec. 10. Section 476.72, subsections 4 and 5, Code 2003,
6 10 are amended to read as follows:

6 11 4. "Public utility" includes only gas or electric rate=
6 12 regulated public utilities ~~and rate-regulated telephone~~
6 13 ~~utilities providing local exchange telecommunication service.~~

6 14 5. "Utility business" means the generation or transmission
6 15 of electricity or furnishing of gas or furnishing electricity
6 16 ~~or furnishing rate-regulated communications services to the~~
6 17 ~~public for compensation.~~

6 18 Sec. 11. Section 476.96, unnumbered paragraph 1, Code
6 19 2003, is amended to read as follows:

6 20 As used in section 476.95, this section, and sections
6 21 ~~476.97 476.100~~ through 476.102, unless the context otherwise
6 22 requires:

6 23 Sec. 12. Section 476.97, Code Supplement 2003, is
6 24 repealed.

6 25 Sec. 13. Sections 476.98 and 476.99, Code 2003, are
6 26 repealed.

6 27 EXPLANATION

6 28 This bill modifies several provisions in Code chapter 476,
6 29 regarding utilities, specifically as it relates to the
6 30 regulation of telephone service rates by the utilities board
6 31 of the department of commerce.

6 32 The bill modifies Code section 476.1 to provide that the
6 33 utilities board has jurisdiction to set rates for wholesale,
6 34 but not retail, telephone service. The bill also divides the
6 35 existing Code language into subsections.

7 1 The bill modifies Code sections 476.3 and 476.4 to provide
7 2 that the procedure provided for determining the reasonableness
7 3 of rates applies to only regulated rates. The bill also
7 4 divides the existing Code language into paragraphs.

7 5 Code section 476.6 is amended to provide that a blind

7 6 customer is exempt from directory assistance charges and
7 7 strikes language related to the rate regulation of telephone
7 8 services.
7 9 Code sections 34A.7, 476.4A, 476.29, 476.72, and 476.96 are
7 10 amended to delete a reference to rate-regulated telephone
7 11 utilities.
7 12 Code sections 476.97, 476.98, and 476.99, dealing with rate
7 13 regulation, are repealed.
7 14 LSB 5437SC 80
7 15 kk/sh/8